

UNITED STATES DISTRICT COURT

for the

Northern District of New York

UNITED STATES OF AMERICA)

v.)

Case No. 5:23- MJ-453 (ML)

Gavin M. DUNN)

Defendant.)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief. On or about the date(s) of August 14, 2023, in the county of Oswego in the Northern District of New York the defendant violated:

Code Section

8 U.S.C. § 1324(a)(1)(A)(ii)

Offense Description

The Defendant, knowingly and in reckless disregard of the fact that aliens have come to, entered, or remained in the United States in violation of law, did transport, move and attempt to transport and move, such aliens within the United States by means of transportation or otherwise in furtherance of such violation of law.

This criminal complaint is based on these facts:

☒ Continued on the attached sheet.



Complainant's signature

Jason Burrell Border Patrol Agent

Printed name and title

Attested to by the affiant in accordance with Rule 4.1 of the Federal Rules of Criminal Procedure.

Date: August 15, 2023



Judge's signature

City and State: Binghamton, New York

Hon. Miroslav Lovric, U.S. Magistrate Judge

Printed name and title

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This criminal complaint is based on the following facts:

1. I, Jason Burrell, am a Border Patrol Agent with the United States Department of Homeland Security (“DHS”), United States Border Patrol (“BP”). I have been so employed since 2009.

2. As a part of my duties at BP, I have investigated violations of the Immigration and Nationality Act and other violations of the United States Code, including, Title 8, United States Code, Section 1324(a).

3. I make this affidavit in support of a Criminal Complaint charging Gavin M DUNN with violating Title 8, United States Code, Section 1324(a)(1)(A)(ii), which prohibits knowingly transporting or attempting to transport or move aliens within the United States in furtherance of such violation of law.

4. The statements in this affidavit are based upon my own knowledge, my review of BP’s official records, and upon information that I obtained from other law enforcement officers involved with this investigation. Because this affidavit is being submitted for the limited purpose of securing a criminal complaint, I have not included every fact known to me concerning this investigation. I have set forth only facts that I believe are necessary to establish probable cause for the violation stated above.

5. On August 14, 2023, at approximately 3:00 p.m., United States Border Patrol agents were patrolling the area of Oswego, New York, when they were notified of a possible human smuggling event by the New York State Police in the area of Cicero, New York. Upon arrival, agents learned that New York Troopers initiated a vehicle stop, in the town of Cicero, New York, after Troopers observed a vehicle stopped at a traffic light in the roadway, and then remain stationary at the traffic light in the roadway while the light completed a full cycle. As the traffic light again turned green, the vehicle failed to move forward, remaining stationary in the roadway. Troopers initiated their emergency lights and approached the vehicle for possible being disabled.

6. Troopers approached the vehicle and found the defendant Gavin DUNN, was the driver of the vehicle. Troopers later determined the defendant to be a United States citizen. Troopers also observed four passengers in the vehicle, all of whom were sitting in the rear seat of the vehicle, which was meant for three persons. As the Trooper engaged the driver in conversation, The troopers noticed Dunn had an open Twisted

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Tea alcoholic beverage in his center console. DUNN stated that his vehicle ran out of gas and that is why he did not move from his stationary position at the traffic light. Troopers also discovered DUNN's driver's license to be expired. At that point, Troopers requested the defendant exit the vehicle, to which the defendant refused repeated requests to do so. During this interaction, the Troopers witnessed Dunn look back at the rear seat passengers and whisper something to them. When Troopers attempted to remove DUNN from the vehicle, he became combative with Troopers, and Troopers eventually extracted the defendant forcefully, using a taser to do so. While this occurred, the four individuals slowly exited the vehicle and fled the scene.


7. DUNN was placed in the back of Trooper Fields patrol vehicle where he was placed under arrest and read his Miranda warnings. DUNN voluntarily stated that the four persons were illegally present in the United States, and he was to be paid \$1,000 to transport them.

8. Additional Troopers arrived at the scene and assisted in searching the area around Cicero over the next several hours. All four vehicle occupants were located and placed in custody. None of the occupants possessed any form of identification. Agents later discovered that all four were citizens of Vietnam. They are identified here by their initials as H.Q.T., H.D.N, T.N, and N.T.H. All four subjects stated that they were to pay \$3,000 for their transportation, and had traveled to the U.S. illegally, from Canada. The older female was the only one who had \$3,000.00 on their person at the time of their arrest. Border Patrol agents were able to ascertain that none of the vehicle occupants possessed legal immigration documents what would allow them to be in or reside in the United States legally. All four subjects willfully admitted that they were illegally without presenting themselves for proper inspection. Border Patrol agents placed undocumented subjects under arrest and transported all persons to the Oswego Border Patrol Station for processing.


9. At the Oswego Station, the defendant was read his Miranda rights again and waived his right to an attorney. The defendant then confirmed his prior statements to law enforcement. DUNN stated he had picked up the aliens in the early morning from a location near the Akwesasne Mohawk Indian Reservation and drove them further into the U.S. until encountered by New York State Police. DUNN stated he was to be paid \$1000.00 for his efforts.

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Attested to by the affiant:

 8/15/23
Jason Burrell
Agent
U.S. Border Patrol

I, the Honorable Miroslav Lovric, United States Magistrate Judge, hereby acknowledge that this affidavit was attested by the affiant by telephone on August 15, 2023 in accordance with Rule 4.1 of the Federal Rules of Criminal Procedure.


Hon. Miroslav Lovric
United States Magistrate Judge
Northern District of New York